

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**RACHAEL ANNE ELROD, ANDREW
KAUFMAN, and SARAH MARTIN, on
behalf of themselves and all others
similarly situated,**

Plaintiffs,

v.

**NO TAX 4 NASH, MICHELLE
FOREMAN, and JOHN DOES 1-10,**

Defendants.

**BROOKS BRASFIELD, on behalf of
himself and all others similarly situated,**

Plaintiff,

v.

**NO TAX 4 NASH, MICHELLE
FOREMAN, and JOHN DOES 1-10,**

Defendants.

Case No. 3:20-cv-00617

**District Judge Eli J. Richardson
Magistrate Judge Barbara D. Holmes**

Case No.: 3:20-cv-00618

**District Judge Eli J. Richardson
Magistrate Judge Barbara D. Holmes**

CLASS ACTION

JURY DEMANDED

**DECLARATION OF JOE P. LENISKI, JR. IN SUPPORT OF REPRESENTATIVE
PLAINTIFFS' UNOPPOSED MOTION FOR CLASS CERTIFICATION
UNDER FED. R. CIV. P. 23**

I, JOE P. LENISKI, JR., declare as follows:

1. I am an attorney at Branstetter, Stranch, and Jennings, PLLC ("BSJ"), and I, along with Mr. Anthony Orlandi, serve as counsel on behalf of the Representative Plaintiffs in the above-referenced lawsuit. I make this declaration in support of the contemporaneously filed Motion for

Class Certification Under Fed. R. Civ. P. 23, in which Mr. Orlandi and I seek appointment as Class Counsel.

2. Both Mr. Orlandi and I are Members of BSJ, are attorneys in good standing, and are licensed to practice law in the state of Tennessee and District Courts throughout the nation, including the Middle District of Tennessee. I also co-chair BSJ's complex litigation group.

3. BSJ is a plaintiff's advocacy law firm that practices nationwide. We intend to commit to any and all resources needed to successfully prosecute this action. BSJ's complex litigation practice is a nationwide leader in a growing number of class action litigations, including those brought under the TCPA, and has handled such cases across the United States.

4. BS&J has been recognized as one of the "Best Law Firms" in Tennessee for the last three years by U.S. News & World Report as Tier 1 in Employment Law. I have been recognized as a "Rising Star" from Super Lawyers, and have been named to the Class Action Trial Lawyers Top 25, and the National Trial Lawyers Top 100 for Civil Plaintiffs practice.

5. BSJ has been appointed to serve as lead counsel and in other leadership roles in numerous complex consumer fraud, antitrust, and other class actions including the following:

- In re Volkswagen "Clean Diesel" MDL (PSC member whose work contributed to nationwide class settlements totaling over \$15 billion, which is the largest ever consumer class settlement);
- In re: New England Compounding Pharmacy Product Liability Action, 1:13-md-02419 (PSC member involved in securing over \$210 million in settlement funds from the NECC Bankruptcy Estate and a group of other defendants that resolved claims in the Chapter 11 proceeding and lead on all Tennessee litigation which was resolved prior to the first bellwether trials);
- Dahl v. Bain Capital Partners, LLC, No. 07-cv-1238 (Executive Committee and lead on all Tennessee litigation in federal antitrust case challenging bid rigging and market allocation in the private equity/leveraged-buyout industry which reached a \$590.5 million settlement with seven defendants just months before trial).

6. Both Mr. Orlandi and I have extensive experience litigating TCPA cases under Rule 23 of the Federal Rules of Civil Procedure or analogous state court rules. As a result, we are intimately familiar with TCPA cases such as the matter here and the unique issues they present. I personally have been involved as lead counsel in the following certified TCPA class actions:

- *Davis Neurology, P.A. v. Dental Equities LLC, d/b/a Peer United et al.*, (E.D. Ark.) (J. Miller);
- *Irika Skeete et al. v. RePublic Schools Nashville* (M.D. Tenn.) (J. Crenshaw)
- *Davis Neurology, P.A. v. DoctorDirectory et al.* (E.D. Ark.) (J. Miller)
- *M.S. Wholesale v. Western Financial et al.* (Pope County, Arkansas) (J. Satterfield)

7. In addition to my work on the cases listed above, I have been personally appointed Lead or Co-Lead Counsel in several class actions which were brought to successful resolutions, including *In re: Reciprocal of America (ROA) Sales Practices Litigation* (W.D. Tenn.) (J. Breen) and *In re Wellbutrin XL Antitrust Litigation* (E.D. Penn.) (J. McLaughlin).

8. Based on these qualifications and experience, Mr. Orlandi and I are qualified to serve as Class Counsel in the instant putative class action case. We will commit the time and resources needed to complete this case through trial.

9. Attached as **Exhibit 1** hereto is a true and accurate copy of deposition excerpts from the transcript of the deposition of Michelle Foreman.

10. Attached as **Exhibit 2** hereto is a true and accurate copy of deposition excerpts from the transcript of the deposition of Heather Sellers, the designated representative for the 30(b)(6) Deposition of Best Sellers, LLC.

11. Attached as **Exhibit 3** hereto is a true and accurate copy of the Declaration of Joe Gergley.

12. Attached as **Exhibit 4** hereto are true and accurate copy of Defendants' Rule 26(a) Initial Disclosures.

13. Attached as **Exhibit 5** hereto is a true and accurate copy of an Excel file titled "Lauren Maclean - Voter Data list 2020 NoTax4Nash 10.07.21 AM" (filed under separate cover via CD in the Order granting Motion for Leave to File Manually, Dkt. No. 33, and the Order granting Motion to file said Exhibit under seal, Dkt. No. 36).

14. Attached as **Exhibit 6** hereto is a true and accurate copy Exhibit 4 to the deposition transcript of Heather Sellers.

15. Attached as **Exhibit 7** hereto is a true and accurate copy of Defendant Foreman's Responses to Plaintiffs' Requests for Admissions.

16. Attached as **Exhibit 8** hereto is a true and accurate copy of the Declaration of Rachael Anne Elrod.

17. Attached as **Exhibit 9** hereto is a true and accurate copy of the Declaration of Andrew Kaufman.

18. Attached as **Exhibit 10** hereto is a true and accurate copy of the Declaration of Sarah Martin.

19. Attached as **Exhibit 11** hereto is a true and accurate copy of the Declaration of Brooks Brasfield.

20. Attached as **Exhibit 12** hereto is a true and accurate copy of the Firm Resume of the law firm of Branstetter, Stranch and Jennings, PLLC.

21. Attached as **Exhibit 13** hereto is a true and accurate copy of the Declaration of John T. Spragens.

Executed on March 4, 2021.

/s/ Joe P. Leniski, Jr.
JOE P. LENISKI, JR

Date: March 8, 2021

Respectfully submitted,

/s/ Anthony A. Orlandi

Joe P. Leniski, Jr. (TN Bar. No. 22891)

Anthony A. Orlandi (TN Bar No. 33988)

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on March 8, 2021, a true and correct copy of the foregoing has been served on the following counsel of record via the Court's electronic filing system:

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/s/ Anthony A. Orlandi
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